

EXHIBIT NO.

194.

Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

Environmentally Critical Areas Exemptions, Relief from Prohibition on Steep Slope Development, and Modifications to Submittal Requirements —

Application Instructions and Submittal Requirements

Updated December 29, 2009

The City of Seattle environmentally critical areas (ECAs) ordinance (SMC Chapter 25.09) regulates development affecting landslide-prone areas, steep slopes, liquefaction-prone areas, peat settlement-prone areas, abandoned landfills, flood-prone areas, wetlands, riparian corridors, shoreline habitat and other fish and wildlife habitat conservation areas, and ECA buffers.

In some cases DPD may allow exemptions to the ECA regulations or other relief from the prohibition on steep slope development (25.09.180 B1). This Client Assistance Memo (CAM) explains these possibilities, and includes the application forms to apply for an exemption to the ECA regulations, for other relief from the prohibition on steep slope development, or for modification to submittal requirements.

When considering whether an exemption or relief from steep slope development standards apply as part of a specific development proposal, DPD determines whether there is an ECA or ECA buffer on the parcel (SMC 25.09.030 B). In some cases, the presence or absence of an ECA can be determined as part of the pre-application site visit (PASV) process. If not, the determination may be made as part of the CAM 327A application process or during the plan review process. To determine whether there is an ECA on the parcel, DPD relies on the definition of the ECA (SMC 25.09.020),

maps, site surveys, completed PASV form, topographic maps, technical environmental analysis, and any other information necessary (SMC 25.09.030 A). In determining whether there is an ECA buffer on the parcel, DPD also consults SMC 25.09.020 A5 (parcel specific peat settlement-prone area), 25.09.160 (wetlands), 25.09.180 (steep slopes), and 25.09.200 B (shorelines). If there is no ECA or buffer on the site, then exemption from Chapter 25.09 is not necessary because this chapter applies only to parcels that have ECA areas or ECA buffers.

ECA EXEMPTIONS

If granted, an exemption relieves development from all the provisions of the ECA chapter, except for those standards specified in the exemption section of the ordinance (SMC 25.09.045). These standards include limits on development, conditions on development and the use of best management practices. Other standards also apply, even when an exemption is granted, including the general administrative provisions of SMC Section 25.09.017; how to determine the presence of an ECA and buffer per SMC Section 25.09.030B; and the enforcement provisions of the ordinance.

Exemption applications must be part of a specific development proposal (SMC 25.09.045 A2). Exemptions from the ECA standards may be allowed for the following (see Section 25.09.045 of the ECA regulations for more detailed information):

1. Development that does not temporarily or permanently encroach within, alter, or increase the impact to the ECA or buffer on the parcel where the development occurs; but removing existing development and replacing it is not exempt (SMC 25.09.045 D).
2. Work directly related to ending a condition that is both (1) an immediate threat to the public health, safety and welfare, or creates an immediate risk of damage to public or private property and (2) requires remedial or preventive action in a timeframe too short to allow compliance with the application provisions of this chapter; but the work done must be the minimum needed, the work must comply with the chapter's requirements to the extent practi-



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cable and related work after that time period is not exempt (SMC 25.09.045 E).

3. Maintenance, repair, renovation, or structural alteration of an existing structure that does not increase the impact to, or encroach further within, or further alter an ECA or buffer (SMC 25.09.045 F).
4. Rebuilding or replacing structures that are destroyed by an act of nature; but expansion or extension which increases nonconformity with the ECA regulations is not permitted. Work on structures destroyed by an act of nature must be commenced within one year (SMC 25.09.045 G).
5. Certain electric, natural gas, cable communications, telephone, public facility and utility, and right-of-way improvement projects when the project is not a prerequisite to development. This exemption will only be approved when it can be demonstrated that (1) no practicable alternative exists, (2) the encroachment into a critical area is minimized to the greatest extent practicable, and (3) mitigation measures are employed before, during and after construction. (SMC 25.09.045 H).
6. Normal and routine operation, maintenance, remodeling, repair, and removal of existing public facilities and utilities, when these activities do not result in substantial disturbance of ECAs or buffers (SMC 25.09.045 I).
7. Normal and routine (a) pruning, (b) tree and vegetation maintenance and management, and (c) revegetation when they both (1) do not result in substantial disturbance of environmentally critical areas or buffers and (2) are carried out in parks, public utility rights-of-way, and publicly owned open spaces by the public agencies, including City agencies, that are responsible for them.

Exemptions for some projects, except for those in wetlands or riparian corridors, may be approved by a permit leader or permit specialist at the counter if sufficient information is presented for this determination. Types of exemptions most frequently granted in this way are for routine repair and maintenance of existing structures, correction of emergency conditions, or replacement of structures destroyed by an act of nature (subject to limitations). The staff member you speak with will be able to identify requests that trigger the need for a more formal application with documentation for review by the Director. They will also be able to provide you with procedural information about submittal and review of an exemption request.

Applicants can obtain ECA information online at www.seattle.gov/dpd/planning/ECAupdate.

RELIEF FROM PROHIBITION ON STEEP SLOPE DEVELOPMENT

Steep slope development standards do not apply in any downtown or highrise zone, because these are not steep slope critical areas as defined under SMC 25.09.020 A4.

In addition, steep slope development standards do not apply in the following situations, as described more fully in Section 25.09.180 B2:

- a. When development is located where existing development is located, if the impact on the steep slope area is not altered or increased.
- b. When development is located on steep slope areas that have been created through previous legal grading activities, including rockeries or retaining walls resulting from rights-of-way improvements, if no adverse impact on the steep slope area will result. This provision does not extend beyond the cut or fill created by the street, alley, sidewalk or other rights-of-way improvement.
- c. When development is located on steep slope areas that are less than 20 feet in vertical rise and that are 30 feet or more from other steep slope areas, if no adverse impact on the steep slope area will result.
- d. When the Director determines, based on geotechnical expertise, that application of the steep slope regulations would prevent necessary stabilization of a landslide-prone area, subject to the provisions of Section 25.09.080 C, Third-party Review. Stabilization may be "necessary" when existing development is threatened.

IMPORTANT NOTE: Areas that meet the criteria for relief from prohibition on steep slope development are still considered environmentally critical areas. Relief from prohibition on steep slope development is not an exemption under SMC 25.09.045. These projects are still subject to ECA review, steep-slope drainage control, and tree and vegetation regulations, as well as applicable landslide-prone area regulations of the ECA ordinance and any applicable geotechnical review requirements under the Grading Code and the Stormwater Code. Applications for relief from prohibition of steep slope development must be part of a specific development proposal.

MODIFICATIONS TO SUBMITTAL REQUIREMENTS

Modifications to ECA submittal requirements may be allowed in the following situations under Section 25.09.330 and Director's Rule 3-2007:

- a. When the applicant demonstrates to the satisfaction of DPD that complete submittals are not necessary in order to review the proposal for compliance with the substantive requirements of the ECA regulations. The applicant must document the reasons for a requested modification to the submittal requirements.
- b. In cases where the applicant has requested but been denied permission for a surveyor to obtain right of entry to adjoining properties. If this is the case, DPD may allow a modification to the surveyed site plan required as detailed in CAM 103B, ECA Site Plan Requirements, and normally used to show topographic conditions on neighboring properties. DPD may allow the surveyor to indicate on the survey the general conditions of the off-site areas. This modification to the survey requirements will only be allowed when the applicant demonstrates that entry has been denied and that this off-site survey information is not necessary to review the proposed development and protect the public safety and prevent harm to the environment. In these cases, the surveyor shall always indicate on the face of the survey what information is estimated, including general observations. The applicant shall describe in writing what efforts were made to obtain right of entry for the off-site areas and provide a signed statement verifying that the request for entry has been denied.

APPLICATION INSTRUCTIONS

(See attached forms)

All requests must be part of a specific development proposal.

Applicants should speak with a permit leader or a permit specialist by visiting the DPD Applicant Services Center (ASC), located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave.

Applications for ECA exemptions under SMC 25.09.045, for relief from steep slope requirements under SMC 25.09.180 B2, and modifications to ECA submittal requirements under Director's Rule 3-2007 are filed with a permit technician at the Public Resource Center (PRC), also located on the 20th floor of the Seattle Municipal Tower; an appointment is not necessary.

There is an hourly review fee for ECA exemptions, relief from steep slope requirements, and modifications to ECA submittal requirements applications requiring documentation and review. This fee may be revised annually, and an initial review fee is collected at the time of application. Once analysis of research begins on an application, the fee is non-refundable.

Attached are the application form for ECA exemptions and a separate application form for relief from steep slope requirements and modifications to ECA submittal requirements requests. These application forms list the information necessary to submit a complete application. It must be fully completed with the required information and documentation attached before it can be accepted by staff. Additional information may be requested of the applicant during the review process.

REVIEW PROCESS

After an application is submitted, it will be reviewed and analyzed by DPD staff. The DPD Director's decision on a request for an ECA exemption under SMC 25.09.045 or for relief from steep slope requirements under SMC 25.09.180 B2 is a Final decision that may be reviewed and modified by requesting an Interpretation under SMC 23.88.020. An Interpretation is required before seeking judicial review.

OTHER ECA-RELATED DOCUMENTS

- **Director's Rule 3-2007**, *Application Submittal Requirements in Environmentally Critical Areas*
- **CAM 103B**, *ECA Site Plan Requirements*
- **CAM 324**, *Reducing Landslide and Stormwater Erosion Damage: What You Can Do*
- **CAM 327B**, *Small Project Waivers*
- **CAM 328**, *ECA Exception—Application Instructions and Submittal Requirements*
- **CAM 329**, *ECA Administrative Conditional Use Permit—Application Instructions and Submittal Requirements*
- **CAM 330**, *ECA Yard and Setback Variance—Application Instructions and Submittal Requirements*
- **CAM 331**, *ECA: Tree and Vegetation Overview*
- **CAM 331A**, *ECA: Vegetation Restoration*
- **CAM 331B**, *ECA: Hazard Trees*

Access to Information

Links to electronic versions of DPD publications are available on the "Publications" page of our website at www.seattle.gov/dpd. Paper copies are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.

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DPD Project No. _____

REQUEST FOR ECA EXEMPTION

TO BE COMPLETED BY APPLICANT

ECAS AND/OR BUFFERS MAPPED OR IDENTIFIED ON SITE





Geologic Hazard Areas

- ☐ Steep Slope ☐ Potential Slide due to Geologic Conditions ☐ Known Slide
- ☐ Liquefaction-prone ☐ Peat Settlement-prone

Fish and Wildlife Habitat Conservation Areas

- ☐ Shoreline Habitat* ☐ Riparian Corridor (includes Riparian Management Area)
- ☐ Shoreline Habitat Buffer* ☐ Other Fish and Wildlife Habitat Area

Other

-  Wetland  Wetland Buffer  Flood-prone  Abandoned landfill

TYPE OF EXEMPTION

ECA Exemption under Section 25.09.045, subject to conditions of that section

- ☐ Proposed development is outside the ECA and its buffers and imposes no additional impact to the ECA [Section 25.09.045D]. If more than one ECA is mapped or identified on the site, indicate applicable ECA(s) for which exemption is requested. _____

- ☐ Proposed development meets one or more of the provisions of 25.09.045 E through J. Please describe.

FOR DPD
INTERNAL
USE ONLY

NONPROX

SITE, PROJECT, AND OWNER/AGENT INFORMATION

Site Address: _____

Description of proposed project: _____

Please describe the reasons for your request: _____

Request must be part of a specific development proposal submitted for DPD review and apply only to that proposal. Please provide the assigned DPD project number for the proposal:

Property Owner's Name: _____

Residence Address: _____

City/State/Zip Code: _____

Telephone: _____

Agent's Name: _____

Address: _____

City/State/Zip Code: _____

Telephone: _____

Applicant's Signature: _____

Date of Application: _____

TO BE COMPLETED BY DPD STAFF

☐ Meets Criteria

☐ Does Not Meet Criteria

Reviewer _____ Date _____

Explanation or Conditions:

To obtain review of a decision on an application under SMC 25.09.045, an interpretation must be requested under SMC 23.88.020.



DPD Project No. _____

REQUEST FOR RELIEF FROM PROHIBITION ON STEEP SLOPE DEVELOPMENT OR MODIFICATION TO ECA SUBMITTAL REQUIREMENTS

TO BE COMPLETED BY APPLICANT

ECAS AND/OR BUFFERS MAPPED OR IDENTIFIED ON SITE

Geologic Hazard Areas

- ☐ Steep Slope ☐ Potential Slide due to Geologic Conditions ☐ Known Slide
☐ Liquefaction-prone ☐ Peat Settlement-prone

Fish and Wildlife Habitat Conservation Areas

- ☐ Shoreline Habitat* ☐ Riparian Corridor (includes Riparian Management Area)
☐ Shoreline Habitat Buffer* ☐ Other Fish and Wildlife Habitat Area

Other

- ☐ Wetland ☐ Wetland Buffer ☐ Flood-prone ☐ Abandoned landfill

TYPE OF APPLICATION

- ☐ **Relief from Prohibition on Steep Slope Development under Section 25.09.180B. Choose any that apply (Not an ECA exemption. Project subject to ECA review**.)**

- ☐ Proposed development is located where existing development is located, with no increase in impact on the steep slope [B2a]
- ☐ Proposed development is located on steep slope areas created through previous legal grading activities [B2b]
- ☐ Proposed development is located on steep slope areas that are less than 20 feet in vertical rise and that are 30 feet or more from other steep slope areas, and no adverse impacts on the ECA will occur [B2c]
- ☐ Application of development standards would prevent necessary stabilization of a landslide prone area [B2d]

- ☐ **Modification to submittal requirements (not an ECA exemption. Project subject to ECA review**).** Request for modification to application submittal requirements per Director's Rule 3-2007. If more than one ECA is mapped or identified on the site, indicate applicable ECA for which modified submittal requirements are requested.

FOR DPD
INTERNAL
USE ONLY

SS:REDV

SS:GRAD

SS:ISOL

SS:STAB

*For Shoreline Habitat and buffer, regulations in SMC 23.60 also apply. A Shoreline Substantial Development Permit (SSDP) or Exemption may be required. See CAM 209A for information about exemptions from SSDP.

**Development may also be subject to SEPA. See CAM 208, *When Environmental Review is Required in the City of Seattle*.

FORM CONTINUES

SITE, PROJECT, AND OWNER/AGENT INFORMATION

Site Address: _____

Description of proposed project: _____

Please describe the reasons for your request: _____

Request must be part of a specific development proposal submitted for DPD review and apply only to that proposal. Please provide the assigned DPD project number for the proposal:

Property Owner's Name: _____

Residence Address: _____

City/State/Zip Code: _____

Telephone: _____

Agent's Name: _____

Address: _____

City/State/Zip Code: _____

Telephone: _____

Applicant's Signature: _____

Date of Application: _____

TO BE COMPLETED BY DPD STAFF

☐ Meets Criteria ☐ Does Not Meet Criteria

Reviewer _____ Date _____

Explanation or Conditions:

To obtain review of a decision on an application under SMC 25.09.180B, an interpretation must be requested under SMC 23.88.020.